State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

GURBIR S. GREWAL
Attorney General

TO: All Law Enforcement Chief Executives

FROM: Gurbir S. Grewal, Attorney General

DATE: December 4, 2019

SUBJECT: **Transitioning from "Early Warning Systems" to "Early Intervention Systems"**

On March 20, 2018, I issued Attorney General Law Enforcement Directive (AG Directive) 2018-3, also known as the "Early Warning Systems Directive," which required that each state, county, and local law enforcement agency in New Jersey adopt and implement its own early warning system (EWS) protocol. As you know, EWS is an important management tool—not simply because it helps police departments identify officers whose behavior is, or may become, problematic, but also because it provides a mechanism for intervening *before* the matter escalates.

The idea behind EWS is simple. A law enforcement agency identifies certain types of officer conduct, or "performance indicators," that may be predictive of future misconduct or danger to the officer. The EWS tracks all instances of performance indicators across the agency. If a particular officer engages in a certain number of performance indicators within a defined period of time (for example, three instances in a twelve-month period), then the EWS flags the officer for the agency's leadership. The officer's supervisor then works with the officer to improve their performance, typically with additional training or other forms of support, in order to avoid future misbehavior. The agency continues to monitor the officer's performance in the subsequent months to ensure that the initial intervention was successful.

One of the most important aspects of EWS is that it is non-punitive. Although an officer may have received discipline for conduct associated with certain performance indicators, the mere fact that an officer was "flagged" by EWS does not, by itself, trigger additional punishment for the officer. Rather, EWS helps managers identify areas where officers may need additional support and creates an opening to raise the issue. In this regard, EWS simply formalizes what many good law enforcement leaders already do.

The March 2018 Early Warning Systems Directive did not simply mandate EWS for the state's law enforcement agencies, it also set some baseline requirements for each agency's program. The Directive required that each agency include 14 mandatory performance indicators and allowed the agency's law enforcement executive to add any additional indicators he or she deemed appropriate. The Directive also established the maximum number of indicators that would trigger EWS: three instances in a twelve-month period, with the option for agencies to set a lower number at the discretion of the law enforcement executive.

The 14 mandatory indicators covered a range of officer conduct, from criminal charges against an officer to more common disciplinary violations, such as insubordination, neglect of duty, and unexcused absences. In addition, several of the indicators involved *allegations* of improper conduct, rather than sustained findings, including allegations of domestic violence and sexual harassment. By design, the 14 indicators incorporated a broad range of actual and potential misconduct, even if it meant that EWS programs would occasionally trigger a "false positive" that flagged officers who presented little risk of future misconduct. Given the non-punitive nature of EWS, the Directive recognized that it would be better to create a system that prompted supervisory officers to have more EWS-triggered conversations than necessary, as opposed to creating a narrower program that allowed some at-risk officers to slip through the cracks.

That said, no system is perfect, and we can always find ways to improve operations. Over the past year, my office has engaged in a number of discussions with criminal justice stakeholders about improving our State's EWS protocols. Some individuals have expressed concern about several of the existing indicators, while others have pushed for entirely new ones. At the same time, we have heard that, despite best efforts, some officers still view EWS as a punitive measure rather than a remedial one. From these conversations, we have identified two overarching goals for EWS going forward: to ensure that our mandatory indicators are based on sound science, and to eliminate any lingering stigma associated with EWS.

One of the ways we hope to address these concerns is by reframing and redesigning how we identify at-risk officers. Rather than focusing on traditional "early warning systems," which simply track and count instances of performance indicators, we hope to build a new model—a true "early intervention system"—that comprehensively tracks officer conduct and provides better tools for assessing and assisting officers before problems escalate. Our goal is to develop a statewide system that is rigorously evidence-based and incorporates the latest research about effective law enforcement management. Among other things, this new early intervention system will work in conjunction with the new officer resiliency program established by AG Directive 2019-1.

For that reason, I am directing the Office of Public Integrity & Accountability (OPIA) to take the lead in developing a proposal for a new statewide system. As part of this effort, I have asked that OPIA consult with a wide range of stakeholders, including law enforcement leaders, county prosecutors, community advocates, and the state's newly appointed Chief Resiliency

Officer, and to deliver recommendations to me by December 31, 2020. I hope that you will share your thoughts and feedback with OPIA as it develops a system that works for all law enforcement agencies in the state.

I look forward to continuing our collaboration as we work to strengthen public safety, improve the health and wellbeing of our officers, and promote public trust.